

Reconsideration and withdrawal of the requirement for restriction and the election of species is respectfully requested in view of the remarks which follow:

REMARKS

Claims 1-82 are pending in the application.

Applicants point out that an Information Disclosure Statement has been filed March 17, 2004 and a Supplemental Information Disclosure Statement has been filed October 28, 2004. Accordingly, Applicants respectfully request that the Examiner make such documents of record in the next communication from the Patent and Trademark Office. In particular, Applicants request that initialed copies of the Form PTO-1449 submitted with the Information Disclosure Statements be forwarded to Applicants, so that the Examiner's consideration of the documents cited therein may be confirmed.

RESTRICTION REQUIREMENT

The Examiner has required restriction to one of the following inventions under 35 U.S.C. 121:

Group I. Claims 1-29, drawn to a light source, classified in class 385, subclass 39.

Group II. Claims 30-82, drawn to an exposing device and an image forming device, classified in class 385, subclass 31

The Examiner has also required Applicants to elect a single disclosed species for prosecution on the merits which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner also states that currently no claim is generic.

If Group I is elected, a light source is elected,

Species A: A light source as described in claim 1.

Species B: A light source as described in claim 16.

Species C: An exposing device and an image forming device described in claims 30 and 34.

Species D: An exposing device and an image forming device described in claims 35 and 50.

Species E: An exposing device and an image forming device described in claims 51 and 82.

Species F: An exposing device described in claim 52.

Species G: An exposing device described in claim 60.

Species H: An exposing device described in claim 63.

Species I: an exposing device described in claim 64.

In an attempt to justify the requirement for restriction, the Examiner has taken the position that the inventions are related as combination and subcombination, and alleges that the combination as claimed does not require the particulars of the subcombination as claimed because the exposing device as claimed does not require the particulars of the structural features of the light source claimed, as evidenced by

claim 35, and the subcombination has separate utility such as a light source for multiplex telecommunications.

Continuing, the Examiner takes the position that because the inventions are distinct for the reasons given, and a search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

Election

In order to be responsive to the requirement for restriction, Applicants elect the invention set forth in Group II, claims 30-82, and species C, with traverse. Applicants respectfully submit that at least claims 30-34 are readable upon the elected species.

Traverse

Notwithstanding the election of the claims of Group II and the species C in order to be responsive to the Restriction Requirement, Applicants respectfully traverse the requirement for restriction.

Initially, it is pointed out that the requirement for restriction omits one of the two criteria of a proper requirement as now established by U.S. Patent and Trademark Office policy, as set forth in MPEP 803 that "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if a restriction were not required. Due to the aforementioned omission, it is respectfully submitted that the requirement for restriction is improper and, consequently, its withdrawal is respectfully requested.

Related to this, the requirement is traversed since there would not appear to be a serious burden to examine Applicants' application in total, and for which they have paid the appropriate claim fees. Applicants submit that it would be no serious burden on the Examiner to examine all of the pending claims, because a search for all of the claims in the above-identified application, should be made in order to do a complete and thorough search in view of the recognized relationship between the claims in Groups I and II as well as in the different species set forth in the requirement.

Applicants point out that the Examiner supports the requirement for restriction based on combination/subcombination considerations. However, in the instant situation, the restriction is not supported by two way distinctness required by combination/subcombination requirements. The Examiner is reminded that where, as is the present situation, the combination/subcombination has the relationship of AB_{sp}/B_{sp} restriction is not proper.

In the instant situation, for example, the claims of the elected Group II and elected species C, include claim 30 which includes the exposing device comprising the light source according to claim 16, and claim 34 which includes the exposing device recited in claim 30. Accordingly, it is inappropriate to require restriction in the instant situation.

Moreover, the search for the two groups of invention appears to be at least related, and should certainly overlap if not actually be coextensive. Thus, there would be no serious burden on the Examiner to examine all of the claims in this application. For this reason, and consistent with Office policy set forth in MPEP 803, Applicants respectfully request that the Examiner reconsider and withdraw the requirement for restriction.

Still further, with regard to the election of species, Applicants note that the subject matter recited in the claims in Group II can also be considered in a number of instances to be related as combination/subcombination claims. Therefore, similar criteria should be applied to the claims in Group II, and all of the claims should be examined. In this regard, the search for each species should overlap if not be coextensive, and there should be no undue burden to examiner each of the claims in Group II.

Applicants once again respectfully submitted that the subject matter recited in the two groups of claims, for the reasons set forth above, are so related for examination purposes that a search thereof would necessarily involve the same art areas. Thus, it is respectfully submitted that there would be no undue burden on the Office or the Examiner to examine all of the claims in this application at one time.

In view of the foregoing, it is respectfully requested that the Examiner reconsider the requirement for restriction and election of species, and withdraw the same so as to give an examination on the merits on all of the claims pending in this application.

CONCLUSION

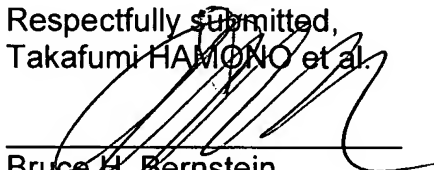
For the reasons discussed above, it is respectfully submitted that the Examiner's requirement for restriction and request for election of species is improper and should be withdrawn.

Withdrawal of the requirement for the restriction with the examination of all claims pending in this application, claims 1-82, is respectfully requested.

Favorable consideration with early allowance of claims 1-45 is most earnestly requested.

If the Examiner has any questions, or wishes to discuss this matter, please call the undersigned at the telephone number indicated below.

Respectfully submitted,
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